

AGENDA ITEM NO. 5

TITLE: LICENSING ACT 2003 LICENSING AUTHORITY STATEMENT
OF LICENSING POLICY – FIVE YEAR REVISION

COMMITTEE: Licensing Committee

DATE: 15 July 2015

AUTHOR: Stewart Broome, Senior Licensing Officer

[Q28]

1.0 ISSUE

1.1 To approve the draft revised version of the Council's Statement of Licensing Policy.

2.0 RECOMMENDATION(S)

2.1 That Members approve the draft version of the Statement of Licensing Policy at **Appendix 1**.

2.2 That Members agree to a statutory public consultation taking place on the draft Statement of Licensing Policy from 16 July 2015 to 27 August 2015 in accordance with the Licensing Act 2003.

3.0 BACKGROUND

3.1 The Licensing Act 2003 (the Act) focuses on the promotion of four statutory licensing objectives which must be addressed when licensing functions are undertaken. The four licensing objectives are:

- a. The prevention of crime and disorder
- b. Public safety
- c. The prevention of public nuisance
- d. The protection of children from harm

3.2 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2003 Act.

3.3 During the five year period, the policy must be kept under review and the licensing authority may make such revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met.

3.4 The Guidance issued under the Licensing Act states that before determining its policy for any five year period, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- the chief officer of police for the area;
- the fire authority for the area;
- persons/bodies representative of premises licences issued by the Council;
- persons/bodies representative of club premises certificates issued by the Council;
- persons/bodies representative of personal licences issued by the Council; and
- persons/bodies representative of businesses and residents in its area.

3.5 The policy must be approved by full Council prior to its coming into force on 7 January 2016.

3.6 The current policy has been in force since 7 January 2011 and it has proved to be very satisfactory at guiding applicants, officers, and more importantly, the Licensing Committee, in the consideration and determination of applications. Due to this it has not been seen as necessary to make major changes to the policy at this point in time, and therefore, the changes are based around reflecting a number of legislative changes that have occurred since 7 January 2011. The following table highlights these changes:

Key Changes

Reformatting of the Policy	The Policy has been slightly reformatted and reworded, though in principal the contents are similar to those found in the current Licensing Policy, and any changes only reflect legislative changes that have occurred since the last policy was approved in 2011.
Early Morning Restriction Order – page 15	Outline of Early Morning Restriction Orders (EMROs) for information purposes only.
Late Night Levy – page 16	Outline of Late Night Levy (LNL) provisions for information purposes only.
Regulated Entertainment – page 7	Reworded section on regulated entertainment due to changes in legislation
Removal of terms – throughout the policy	Removal of the term “Vicinity”. The term “Interested Party” to be replaced with “Other Person” The term “Necessary” to be replaced with “Appropriate” when considering conditions to be placed on a licence due to changes in legislation.

Information Regarding Licensing Fees	A new paragraph regarding suspension for non-payment of annual fee has been introduced due to legislative changes.
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3.7 The Statement of Licensing Policy attached at Appendix 1 has been drafted in line with the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 issued in March 2015.

3.8 The results of the consultation exercise will be brought back to Licensing Committee on 9 September 2015 and then referred to Council on 22 October 2015 for approval to come into force on 7 January 2016.

4.0 CONCLUSIONS

4.1 Section 5 of the Licensing Act 2003 requires all licensing authorities to prepare and publish a statement of principles that they propose to apply in exercising their functions under the Act during the five-year period to which the policy applies.

4.2 Guidance to Licensing Authorities, issued under Section 182 of the Licensing Act 2003 by the Home Office specifies the scope and content of the Statement of Licensing Policy.

4.3 The attached Draft Statement of Licensing Policy at Appendix 1 is in line with these requirements.

5.0 FINANCIAL IMPLICATIONS

5.1 There are no cost implications over and above the normal costs of administering the 2003 Act.

5.2 An Equality Impact Assessment (EIA) has been completed showing there is no adverse impact on the community if Members follow the Officer recommendations.

6.0 APPENDICES

6.1 Appendix 1	Proposed Draft Statement of Licensing Policy
6.2 Appendix 2	Equality Impact Assessment (EIA)

Background Documents

The Licensing Act 2003

Revised Guidance issued under Section 182 of the Licensing Act 2003, March 2015

Location

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The Grange,
Ely

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EAST CAMBRIDGESHIRE DISTRICT COUNCIL

REVISED STATEMENT OF LICENSING POLICY

PREFACE

This is the fourth Statement of Licensing Policy produced by East Cambridgeshire District Council under the Licensing Act 2003, having been approved by the Council on 22 October 2015. It will be the basis for all licensing decisions taken by the Council as the Licensing Authority over the next five years commencing on 7 January 2016.

The Statement of Licensing Policy sets out how the Council, as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that children, vulnerable persons and communities need and expect.

The Council recognises how important the entertainment industry is within the district and well-run businesses will get the support of the Council. New licensing related developments that are well planned and can demonstrate initiatives that uphold the four licensing objectives of the Licensing Act 2003 are welcomed. However, the Council will not hesitate in dealing firmly where problems relating to crime and disorder and anti social behaviour or nuisance exist.

The Statement of Licensing Policy will be kept under review and it will be amended when issues arise that make change necessary. The Council will seek through the licensing process and the decisions it takes, to make East Cambridgeshire a safe and welcoming place for both residents and visitors to enjoy.

In reviewing this policy statement, the Licensing Authority has taken account of new revised Guidance issued by the Home Office.

This revised Statement of Licensing Policy was offered for consultation between 15 July 2015 and 27 August 2015 to statutory consultees, responsible authorities, interested parties and the public at large. Notice of the consultation process was advertised on the Council's website and copies were placed at the Council's Reception at The Grange, Nutholt Lane, Ely, CB6 4EE and in each of the libraries within the East Cambridgeshire district.

Formal responses to the process were requested to be made in writing to:

Licensing Section
East Cambridgeshire District Council
The Grange
Nutholt Lane
Ely
CB6 4EE

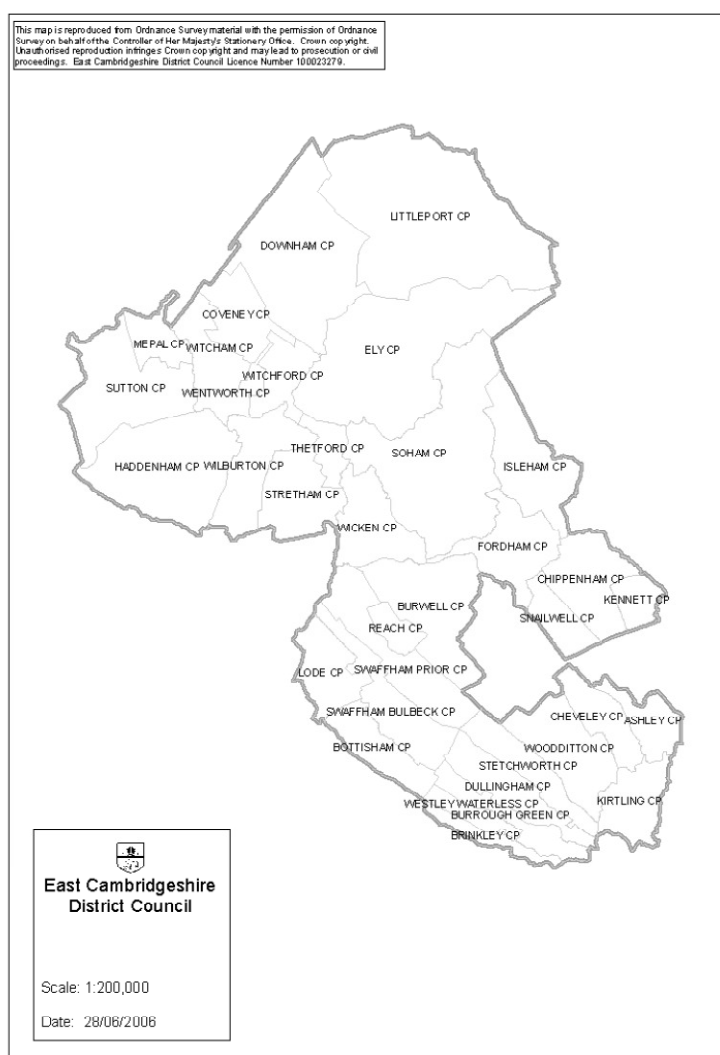
or by email to licensing@eastcambs.gov.uk

East Cambridgeshire District Council is one of five district authorities and one unitary authority that make up the County of Cambridgeshire. It has a population of approximately 84,700 (mid 2012 est.) and covers an area of almost 65,500 hectares.

The district is predominantly rural in character and stretches from the Norfolk border in the north to within a few miles of the city of Cambridge in the South; from the long straight stretch of the New Bedford River in the West to a long border with Suffolk to the East.

The district has an outstanding built and natural heritage, including the internationally recognised Ely Cathedral, the National Stud, July Racecourse, Wicken Fen and Anglesey Abbey. Close to Cambridge, the district enjoys excellent connections with regional road and rail networks, as well as London Stansted Airport.

East Cambridgeshire district offers a wide and developing variety of culture, history, businesses, recreation and dwellings with transport infrastructure provided by the mainline railway to London, Peterborough, Cambridge and Stansted Airport, and local bus services.



CONTENTS

Paragraph	Item	Page
	Preface	2
1.0 – 1.4	Foreword	5
1.5 – 1.6	Licensing Objectives	5
1.7 – 1.10	Statement of Licensing Policy	6
1.11	Disclaimer	6
1.12 – 1.13	Consultation	6
1.14 – 1.17	Links to Other Strategies	7
1.17 – 1.18	Regulated Entertainment	7
1.19 – 1.27	Licensing Process	7
1.28 – 1.32	Planning and Building Control	8
1.33 – 1.37	Applications	9
1.38 – 1.39	Temporary Event Notices	10
1.40 – 1.46	Other Persons	10
1.47 – 1.51	Representations	11
1.52 – 1.60	Conditions	12
1.61 – 1.63	Delegation of Functions	13
1.64	Need for Licensed Premises	14
1.65 – 1.69	Cumulative Impact	14
1.70 – 1.80	Early Morning Restriction Order	15
1.81 – 1.90	Late Night Levy	16
1.91 – 1.92	Advice and Guidance	17
1.93 – 1.98	Reviews of Licences	17
2.00 – 2.03	Enforcement	18
2.04 – 2.05	Inspection of Premises	19
2.06 – 2.07	Annual Fees	19
3.0 – 3.9	Licensing Objectives	20
4.0 – 4.8	Prevention of Crime and Disorder	21
5.0 – 5.3	Public Safety	23
6.0 – 6.7	Prevention of Public Nuisance	24
7.0 – 7.10	Protection of Children from Harm	26

1.0 INTRODUCTION

Foreword

- 1.1 East Cambridgeshire District Council is the “Licensing Authority” under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, personal licences and authorising temporary event notices in the East Cambridgeshire district in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
- 1.2 The Licensing Authority is required to discharge its licensing function through a committee of between 10 and 15 members – the Licensing Committee. The Council has appointed a Licensing Committee of 11 members, and a Licensing Sub-Committee consisting of 5 members selected from the 11. This Sub-Committee has a quorum of 3 members that will determine applications.
- 1.3 When assessing applications, the Licensing Authority must be satisfied that the measures proposed in the applicant’s operating schedule aim to achieve the four licensing objectives. Bold type in this policy refers to matters that the Licensing Authority expects to see addressed in the applicant’s operating schedule, where appropriate. Passages of text that are not in bold are provided to assist applicants to understand what the Licensing Authority is seeking to achieve, the factors that influence the achievement of the licensing objectives and the control measures that could be implemented by the applicant to achieve that outcome.
- 1.4 However, it should be recognised that this policy covers a wide variety of premises and activities undertaken therein, including theatres, cinemas, restaurants, pubs, nightclubs, private members’ clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 23:00 hours. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can it detail all the control measures that may be appropriate.

Licensing Objectives

- 1.5 The 2003 Act requires the Licensing Authority to undertake its various licensing functions in a manner that promotes the four licensing objectives. These are
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm.

These objectives are the only matters to be taken into account in determining the application and any conditions to be attached must be appropriate to achieve the licensing objectives.

- 1.6 In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.**

Statement of Licensing Policy

- 1.7 The 2003 Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' which sets out the policies that the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.8 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to Home Office Guidance issued under Section 182 of the Act.
- 1.9 The 2003 Act further requires the Licensing Authority to monitor, review, and, where appropriate, amend its Statement of Licensing Policy. The Licensing Authority will consult with those groups mentioned in paragraph 1.13 below prior to amending any part of the policy and in preparing its Statement of Licensing Policy for each future five-year period.
- 1.10 This Statement of Licensing Policy was reviewed in June 2015, circulated for consultation between 16 July 2015 and 27 August 2015 prior to being ratified by Council on 22 October 2015. It has effect until 6 January 2021.

Disclaimer

- 1.11 Advice and guidance contained in the Statement of Licensing Policy is intended only to assist readers and should not be interpreted as legal advice or as constituent of East Cambridgeshire District Council's Statement of Licensing Policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Licensing Act 2003 or of the Guidance or Regulations issued under the Act.

Consultation

- 1.12 There are a number of groups that have a stake in the leisure industry, including providers, customers, residents and enforcers, all of which have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.

- 1.13 In developing this policy statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Responsible Authorities), the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

Links to other Strategies

- 1.14 In preparing this Statement of Licensing Policy, the Licensing Authority has had regard to and consulted with those involved in East Cambridgeshire District Council's local strategies on crime prevention, planning, transport, culture, tourism, community, eGovernment and economic development, to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amendment of these strategies will be considered for their impact upon this Statement of Licensing Policy.
- 1.15 Where appropriate, the Licensing Authority will co-ordinate and liaise with the Planning Authority and will provide information regarding licensed premises in the area, including evidenced alcohol related crime and disorder information, to enable the Planning Committee to have regard to such matters when making decisions.
- 1.16 The Licensing Authority recognises its responsibilities under the Equality Act 2010, and the Human Rights Act 1998, and in particular Article 6 (right to a fair public hearing), Article 8 (right to respect for home, private, and family life) and Article 1 of the first protocol (right to peaceful enjoyment of property and possessions).

Regulated Entertainment

- 1.17 Regulated entertainment has been subject to a number of changes since the first licensing statement of policy was produced in 2005 due to the 2003 Act being amended by other legislation. Applicants should be aware that the Licensing Authority will apply the rules applicable to the provision of regulated entertainment at the time of application. Full information on regulated entertainment is available on the Council's website.
- 1.18 The Licensing Authority will look to balance the natural concerns of parties likely to be affected by regulated entertainment with the wider cultural benefits, particularly the cultural benefits for children of holding events.

Licensing Process

- 1.19 When considering applications, the Licensing Authority will have regard to:
- the Licensing Act 2003 and the licensing objectives
 - Government Guidance issued under Section 182 of the Licensing Act 2003
 - any supporting regulations
 - this Statement of Licensing Policy.

- 1.20 This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 1.21 The Licensing Authority recognises that, in some circumstances, longer licensing hours for the sale of alcohol may help to avoid concentrations of customers leaving premises simultaneously and to reduce the potential for disorder. It also recognises that overly restrictive hours may inhibit the development of night-time economies that are important for investment, employment and tourism.
- 1.22 When determining applications by the Licensing Committee, the Licensing Authority will seek to balance those factors against its duty to promote the four licensing objectives and the rights of residents to peace and quiet.
- 1.23 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation.
- 1.24 There may be occasion where East Cambridgeshire District Council seeks a premises licence from the Licensing Authority for one or its properties or promoted events. The Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the committee. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the Licensing Authority are entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.
- 1.25 In all cases, applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.
- 1.26 It should be noted that incomplete applications will not be accepted, but will be returned with an explanation of why it is incomplete.
- 1.27 The Licensing Authority welcomes applications made via East Cambridgeshire District Council's electronic application facility.

Planning and Building Control

- 1.28 The Licensing Authority will ensure that planning, building control and licensing regimes will be separated to avoid duplication and inefficiency.
- 1.29 **The Licensing Authority would normally expect that applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned.** However, the Licensing Authority acknowledges that applications for

premises licences or club premises certificates may be made prior to any relevant planning permission having been sought or granted by the planning authority. Applicants would be expected to ensure that all relevant permissions are obtained where necessary.

- 1.30 The Licensing Authority recognises that licensing applications should not be a re-run of a planning application nor should they cut across decisions taken by the planning committee or following appeals against decisions taken by the Council's planning committee. The Licensing Authority's licensing committee will not be bound by decisions made by the Council's planning committee and vice versa.
- 1.31 Where the granting of any variation to a premises licence or club premises certificate involves a material alteration to a premise, the Licensing Authority would expect the applicant to apply for relevant planning permission or building control consent where appropriate.
- 1.32 **The Licensing Authority recognises that when, as a condition of planning permission a terminal hour has been set for the use of the premises for commercial purposes, and where these hours are different from the licensing hours, the applicant must observe the earlier closing time.** Premises operating in breach of their planning permission would be liable to prosecution under planning law.

Applications

- 1.33 Where licensable activities are to take place an application for a premises licence, or a club premises certificate must be made, or a Temporary Event Notice must be served on the relevant parties.
- 1.34 Premises licence and club premises certificate holders can apply to vary their permission providing the variation is not considered to be a substantial change to their existing licence or certificate. Substantial changes would require a new application to be submitted. Substantial is not defined, and although each application will be considered on its own merits, applicants are advised that the Licensing Authority considers the addition of alcohol as a licensable activity, or the increase in premises footprint or licensable area by more than 30% as being a substantial change.
- 1.35 A simplified process minor variations process was introduced in 2009 allowing for certain minor amendments which are unlikely to have a detrimental impact on the licensing objectives to be determined by Officers. Officers will consult with relevant responsible authorities where there is any doubt of possible impact on the licensing objectives. There is no right to a hearing, or appeal with such applications although any comments made by other persons or responsible authorities must be taken into account before any decision is made.
- 1.36 Where the proposed variation to a premises licence or club premises certificate is in respect of structural alterations, the application must always be accompanied by a plan of the proposed alterations in addition to the

existing premises licence or club premises certificate and the plan to which it relates.

1.37 Administrative amendments can be made without applying for a full application. The process the applicant will undertake will depend on the nature of the change. Examples of such changes are below.

- change of name and address of a person named in the licence;
- variation of the licence to specify a new individual as designated premises supervisor;
- transfer of a licence
- request to be removed as designated premises supervisor;
- request of a community premises to disapply the mandatory condition concerning the supervision of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence.

Temporary Event Notices

1.38 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice is given to the Police, and Environmental Health, and the Licensing Authority. When giving a temporary event notice (TEN), consideration shall be given to the four licensing objectives. The Police or Environmental Health may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, if they believe an objective will be undermined. In some cases this could result in the licensing authority imposing conditions on a temporary event notice (TEN). The licensing authority only intervenes if the statutory permitted limits on temporary event notices would be exceeded, or the minimum notice periods are not observed.

1.39 The licensing authority recommends providing at least one month's notice, but the statutory minimum notification period is ten clear working days for a 'standard' TEN, and no less than 5 clear working days for a 'late' TEN not including the day of the event or the day the TEN is received.

Other Persons

1.40 Other persons can make representations about licensing applications or apply for a review of an existing licence or club premises certificate.

1.41 An "other person" is defined as any person who lives or is involved in a business in the relevant authority's area.

- 1.42 The principles that the Licensing Authority will apply to determine whether a individual is an other person are that:
- each case will be decided upon its merits;
 - the Licensing Authority will not apply a rigid rule to its decision-making and will consider the examples of considerations provided in the Guidance to the Act;
 - the Licensing Authority will also consider the term ‘involved in any business’ in its widest possible context, which might include partnerships, charities, faith groups and medical practices;
 - the Licensing Authority recognises that any individual or group may specifically request a representative to act on their behalf, i.e. legal representatives, ward, district or town/parish councillors and MPs.
- 1.43 The Licensing Authority acknowledges that local councillors can make representations as an other person in their own right if they live, or are involved in a business in authorities area, or in their capacity as a local councillor if they have concerns about any premises regardless of whether they live or are involved in a business in the authorities area.
- 1.44 The Licensing Authority considers that Trade Associations, Trade Unions and residents and Tenants’ Associations qualify as other persons where they can demonstrate that they represent persons in paragraph 1.41.
- 1.45 The Licensing Authority will not generally view these bodies as other persons unless they have a member who can be classed as an other person.
- 1.46 The Licensing Authority will generally require written evidence that a person is authorised to represent an other person in any case other than that mentioned in paragraph 1.43 above.

Representations

- 1.47 Any Responsible Authority or other person may make relevant representations on applications for the grant or variation or minor variation of a premises licence or club premises certificate and request reviews of licences or certificates that have been granted.
- 1.48 A representation will only be ‘relevant’ if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious.
- 1.49 The licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made, including the name and address of the person who submitted it. Unless a person making a representation can satisfy the licensing authority that there are exceptional reasons as to why their name and address should not be made public (in which case some or all of

their details may be withheld), these details will be released. Due to this other persons may wish to approach a responsible authority or ward councillor with their concerns.

- 1.50 In all cases, applicants and those making representations that are genuinely aggrieved by a decision of the Licensing Committee are entitled to appeal to the Magistrates' Court against the decision of the committee.
- 1.51 Where the Responsible Authorities or an other person does not raise any relevant representations about the application made to the Licensing Authority, the Licensing Authority will grant the premises licence or club premises certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Licensing Act 2003.

Conditions

- 1.52 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act.
- 1.53 The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing that it's appropriate to impose conditions due to the representations raised. It may then only impose such conditions as are appropriate to promote the licensing objectives arising out of consideration of the representations.
- 1.54 The Licensing Authority actively promotes the benefits of partnership working between the Council and local businesses to enhance business operations and thereby achieves the community benefits of minimisation of waste, enhancement of the street scene, promotion of community safety, reduction of the fear of crime and the encouragement of tourism and inward investment.
- 1.55 To maximise the efficiency of administering licences and reduce the necessity for hearings, the Licensing Authority will actively encourage applicants and clubs to consult with Responsible Authorities and seek professional guidance from Council services, when operating schedules are being prepared to allow for proper liaison to take place in such areas as noise reduction, CCTV, refuse and litter, etc., to avoid representations being necessary. The Licensing Authority accepts that while some applicants may find it useful to contact the Responsible Authorities and Council services for advice and professional assistance, others will not need to do so, and that applications cannot be refused on the basis that such consultation has not taken place.
- 1.56 Where relevant representations are made, the Licensing Authority will weigh up all the evidence and determine the application with the requirement to uphold the licensing objectives at the front of their minds.

- 1.57 Any conditions arising from the operating schedule or as a result of representations will focus primarily upon the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.
- 1.58 The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These could include
- planning controls
 - positive measures by the Council to create a safe and clean town environment in partnership with local businesses, transport operators, etc.
 - the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
 - powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
 - police enforcement of the general law concerning disorder, anti-social behaviour and ASBOs, including the issuing of fixed penalty notices for disorder, making dispersal orders, etc.
 - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
 - the confiscation of alcohol from children and adults in designated areas
 - police and/or local authority powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
 - the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- 1.59 If an applicant volunteers a prohibition or restriction in his/her operating schedule because his/her own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence or certificate and will be enforceable as such.
- 1.60 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises, to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will, therefore, be avoided and no condition will be imposed that cannot be shown to be appropriate for promotion of the licensing objectives.

Delegation of Functions

- 1.61 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 1.62 The Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the Guidance issued by the Secretary of State, the Council's Constitution and procedures laid down for good governance.
- 1.63 In determining applications where the Licensing Authority has acted as a responsible authority, there will be a clear separation of responsibilities to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating distinct functions to different Officers within the authority, so the Officer presenting the report to the Sub-Committee and advising the Members will be a different individual to the Officer who is acting as the responsible authority. The Officer acting as the responsible authority will not be involved in the decision making process.

Need for Licensed Premises

- 1.64 There can be confusion about the difference between "need" and the "cumulative impact" of premises on the licensing objectives. "Need" concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a Licensing Authority in discharging its licensing functions or for its Statement of Licensing Policy.

Cumulative Impact

- 1.65 "Cumulative impact" means the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its Statement of Licensing Policy.
- 1.66 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases, the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.
- 1.67 The Licensing Authority will only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area are resulting, or are likely to result, in unacceptable levels of crime and disorder or public nuisance.

- 1.68 At the time of publishing this policy the Licensing Authority, having regard to the evidence available, considers that there is no particular part of the district causing a cumulative impact on any of the licensing objectives.
- 1.69 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be upon the objectors to provide evidence that additional licences or the variation of existing licences would produce the cumulative impact claimed.

Early Morning Restriction Order

- 1.70 Whilst the Licensing Act 2003 introduced a single integrated scheme for licensing premises used for the sale or supply of alcohol, regulated entertainment and late night refreshment, one of its primary purposes has been to tackle problems associated with misuse of alcohol.
- 1.71 It has now been recognised by Government, through statutory guidance, that longer hours were not necessarily an answer to all problems. As a result licensing authorities have been given greater discretion in their approach to the management of licensed premises in their areas. On 31st October 2012 amendments to the 2003 Act, by virtue of the Police Reform and Social Responsibility Act were commenced, which allows licensing authorities to adopt new measures for the management of their night time economies.
- 1.72 One of these measures is an Early Morning Restriction Order (EMRO), which allows local authorities to look at restricting the sale of alcohol at a specified time between the hours of midnight and 6:00am.
- 1.73 EMROs are intended to deal with alcohol-related crime & disorder, anti-social behaviour, and serious public nuisance, which is not directly attributable to licensed premises. LAs are encouraged to look at the relationship between their existing cumulative impact area, if one is in place, and a proposed EMRO area.
- 1.74 An EMRO restricts the time within which alcohol can be supplied. Alcohol supply can be prohibited between 0000-0600 and applies to Premises Licences, Club Premises Certificates and Temporary Event Notices. There are no exceptions save that which authorise supply of alcohol to residents with overnight accommodation via mini-bars and room service.
- 1.75 An EMRO can apply to a specific area or even single street – it does not need to be borough-wide. It can apply to specific days of the week, can specify different times for different days of the week, and can apply to limited periods of the year or for an unlimited period. But it cannot apply on New Year's Eve/New Year's Day.

- 1.76 EMROs do not affect authorised hours for regulated entertainment or late night refreshment.
- 1.77 The adoption of an EMRO is subject to a process involving the collection and analysis of relevant evidence and a consultation exercise with the public and holders of licences and/or club premises certificates. The decision to adopt an EMRO has to be taken by a meeting of the Council.
- 1.78 EMROS must be periodically reviewed to ensure they remain appropriate to promote the licensing objectives and can be varied or revoked via the same process as adoption.
- 1.79 Alcohol supply during the time when an EMRO is in force is treated as a Section 136 offence under LA03 (unauthorised licensable activity).
- 1.80 At the time of publishing this policy the Licensing Authority, having regard to the evidence available, considers that there is no particular part of the district that requires an EMRO.

Late Night Levy

- 1.81 A Late Night Levy (LNL) is an optional power, introduced by the Police Reform and Social Responsibility Act which allows Licensing Authorities (LAs) to raise a contribution towards the costs of policing the night time economy (NTE) by charging a levy to holders of Premises Licences and Club Premises Certificates authorised to sell alcohol. A LNL must apply across the whole borough and also applies to all on- and off-licences. TENs are not included.
- 1.82 A LNL would require that a levy be paid by those persons who are authorised to sell alcohol between the periods specified in the LNL (the 'late night supply period') regardless of whether they are actually open during that period. This can be no earlier than 0000hrs and no later than 0600hrs, and must be the same period every day.
- 1.83 At least 70% of the Levy must be paid to the Police and Crime Commissioner.
- 1.84 There are no restrictions on what the police portion can be used for. The Local Authority portion can be used to tackle alcohol-related crime and disorder and to support management of the NTE in line with the: reduction of crime and disorder; promotion of public safety; prevention of public nuisance; street cleansing.
- 1.85 The implementation of a LNL is subject to public consultation and, if it is to be introduced, must be adopted at a meeting of the Council.
- 1.86 The Licensing Authority may deduct the costs of preparing, publicising & administering the levy (subject to regulations) before paying the police

proportion; however an estimate of these costs must be published on the website.

- 1.87 Licensing Authority's should consider the potential financial risk (e.g. lower than expected revenue – the police portion must be paid regardless of whether the levy has been collected in full) prior to implementation.
- 1.88 Holders of authorisations affected by the levy may make a free variation application such that they may avoid being affected by the levy. The Licensing Authority should allow at least two months to holders to make such applications.
- 1.89 The levy will apply indefinitely however it must be reviewed at regular intervals and may be ceased at the end of a levy year.
- 1.90 The council have not adopted this provision and before doing so would conduct a full consultation.

Advice and Guidance

- 1.91 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act 2003 provide, and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority and the Responsible Authorities of the Council will offer as much advice and guidance to applicants as resources permit.
- 1.92 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that he/she discusses his/her proposal with the Licensing Section and those from who they think representations are likely prior to submitting an application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

Reviews of Licences

- 1.93 At any stage following the grant of a premises licence a responsible authority (including the licensing authority) or another person may ask the licensing authority to review the licence because of a matter arising at the premises in connection with one of the four licensing objectives. In addition, a review of the licence will normally follow any action to close the premises (for up to 24 hours) on the grounds of disorder or noise nuisance or as a result of a magistrates' court determination.

- 1.94 Where the Licensing Authority has applied to review an authorisation, there will be a clear separation of responsibilities to ensure procedural fairness and eliminate conflicts of interest.
- 1.95 Under the Violent Crime Reduction Act 2006, following an application from the chief officer of police, the Authority can attach interim steps to licences pending a full review. The Act also introduces a new offence in relation to persistent alcohol sales to minors.
- 1.96 Any application for review must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of one or more of the licensing objectives. Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Applications will not be accepted if they are considered to be frivolous, vexatious or repetitive. Government Guidance suggests that more than one request originating from an other person or responsible authority for a particular premise within a reasonable interval may be considered as repetitious.
- 1.97 Prior to the hearing, the licence holder will be made fully aware of the representations, the evidence supporting the request and will be given the opportunity to prepare a response.
- 1.98 The licensing authority views particularly seriously applications for the review of any premises licence where there has been evidence of the following:
- a) use of licensed premises for the sale and distribution of drugs and/or the laundering of the proceeds of drug crimes;
 - b) use of licensed premises for the sale and/or distribution of firearms;
 - c) evasion of copyright in respect of pirated films and music;
 - d) underage purchase and consumption of alcohol;
 - e) use of licensed premises for prostitution or the sale of unlawful pornography;
 - f) use of licensed premises for unlawful gaming;
 - g) use of licensed premises as a base for criminal activity;
 - h) use of licensed premises for the organisation of for example, racist, homophobic or sexual abuse or attacks;
 - i) use of licensed premises for the sale of smuggled tobacco or goods;
 - j) the use of licensed premises for the sale of stolen goods;
 - k) where the police are frequently called to attend to incidents of disorder;
 - l) prolonged and/or repeated instances of public nuisance;
 - m) where serious risks to public safety have been identified and the management is unable or unwilling to correct those;
 - n) where serious risks to children have been identified.

Enforcement

- 2.00 The licensing authority has an established enforcement policy, based around the principles of consistency, targeting, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat. Due regard will also be given to the Regulator's Compliance Code issued by the East Cambridgeshire District Council Statement of Licensing Policy – **Draft**

Department for Business Enterprise and Regulatory Reform and the Attorney-General's Guidelines to Crown Prosecutors for bringing prosecutions.

- 2.01 The licensing policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been breached. An isolated administrative offence, such as failing to maintain certain records, may be dealt with purely by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety, such as failing to maintain fire extinguishers properly, may result in a referral for prosecution.
- 2.02 The licensing authority will seek to work actively with the police, and other statutory authorities in enforcing licensing legislation. It expects the agencies to share information about licence holders and licensed premises under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the licensing authority when any enforcement action may be required.
- 2.03 The licensing authority will investigate allegations of unlicensed activities and to ensure that licence conditions are complied with.

Inspection of Premises

- 2.04 Any inspection regime will be targeted at those premises that pose the greatest risk and are known to cause the greatest problems.
- 2.05 The licensing authority will aim to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits with the fire authority, police, building control and environmental health officers as appropriate.

Annual Fees for Premises Licences, and Club Premises Certificates

- 2.06 The Police Reform and Social Responsibility Act 2011 introduced a requirement for Licensing Authorities to suspend Premises Licences and Club Premises Certificates when the annual fee is not paid by the due date.
- 2.07 Where a licence or certificate holder disputes the presented fee, or claims an administrative error prior to the annual fee due date, the suspension will start after the 21 day permitted grace period has expired.

3.0 LICENSING OBJECTIVES

- 3.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm.
- 3.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome in bold type. Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.**
- 3.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule.
- 3.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Licensing Authority cannot require such risk assessments to be documented (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of requiring to make application for variation or in response to changing circumstances/conditions at the premises.
- 3.5 Additional measures may be appropriate on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended, or likely, to attract larger audiences and/or audiences of a different nature, and which can have a significant impact upon the achievement of the licensing objectives. **Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned to achieve the licensing objectives.**
- 3.6 The Licensing Authority considers the effective and responsible management of the premises, instruction, training/awareness and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. **For this reason, these elements should be specifically considered and addressed within an applicant's operating schedule.**

3.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in achieving the four licensing objectives (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). **The Licensing Authority will expect the issue of occupancy capacity to be considered and addressed, where necessary, within an applicant's premises risk assessment.**

3.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These could include

- the nature of the premises or event
- the nature of the licensable activities being provided
- the provision or removal of such items as temporary structures, such as a stage, or furniture
- the number of staff available to supervise customers both ordinarily and in the event of an emergency
- the age of the customers
- the attendance by customers with disabilities or whose first language is not English
- availability of suitable and sufficient sanitary accommodation
- nature and provision of facilities for ventilation
- provision of seating
- retention of room divisions to minimise the effect of any disorderly activity
- use of separate areas in single-room pubs to minimise the effect of any disorderly activity.

3.9 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as door staff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can often readily assess the occupancy level of the premises without resort to such measures. **However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to implement additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**

4.0 PREVENTION OF CRIME AND DISORDER

4.1 East Cambridgeshire District Council is committed to improving further the quality of life for the people of the district by continuing to reduce crime and the fear of crime.

4.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty upon East Cambridgeshire District Council, Cambridgeshire Police, Cambridgeshire

County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

- 4.3 The promotion of the licensing objective to prevent crime and disorder places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**
- 4.4 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact upon crime and disorder have been considered. These could include
- under-age drinking
 - drunkenness on premises
 - public drunkenness
 - drugs
 - violent behaviour
 - anti-social behaviour.
- 4.5 The following examples of good management practice are given to assist applicants who may wish to take account of them when preparing their operating schedule, having regard to their particular type of premises and/or activities:
- effective and responsible management of premises
 - training and supervision of staff
 - adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
 - acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' UK driving licences with photographic ID
 - provision of effective CCTV in and around premises (e.g. CCTV systems may need to be checked to ensure they are fit for purpose, the evidential quality of the images provided may need to comply with the Home Office Scientific Development Branch Guidance on Public Space CCTV Systems, there may be a requirement for the system to be compatible to and connected to the Streetsafe East Cambridgeshire CCTV Control Room for the purposes of monitoring and recording if on the public highway)
 - employment of Security Industry Authority licensed door supervisors
 - provision of toughened or plastic drinking vessels
 - provision of secure, deposit boxes for confiscated items ('sin bins')
 - provision of security measures, such as lighting outside premises
 - membership of local 'Pubwatch' schemes or similar organisations.
- 4.6 Within the operating schedule for premises from which alcohol will be sold, the premises licence holder must specify a personal licence holder as the
- East Cambridgeshire District Council Statement of Licensing Policy – **Draft**

‘Designated Premises Supervisor’ (DPS). The Licensing Authority will normally expect the premises licence holder to give the DPS the day-to-day responsibility for running the premises. Although there is no legal obligation for the DPS to be on the premises at all times, the Licensing Authority acknowledges that the premises licence holder and the DPS, in particular with regard to the sale of alcohol, remain responsible at all times, including in their absence from the premises, for compliance with the terms of the Licensing Act 2003 and conditions attached to the premises licence to promote the licensing objectives. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

4.7 Whilst the Licensing Act 2003 requires each sale of alcohol to be made or authorised by a personal licence holder, there is no requirement for every sale to be made by a personal licence holder or for them to be personally present at every transaction. In determining whether real authorisation is given, the Guidance issued by the Secretary of State encourages the practice of an overt act of authorisation, such as a specific written statement being given by personal licence holders to persons not holding a personal licence to make sales of alcohol in their absence.

4.8 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending upon the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable, giving at least ten clear working days, or five clear working days (Late TENs) minimum statutory notice, to enable the police, and environmental health to consider them. The Licensing Authority acknowledges that ‘working days notice’ means working days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.

5.0 PUBLIC SAFETY

5.1 East Cambridgeshire District Council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. **To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**

5.2 When addressing the issue of public safety, an applicant must demonstrate that those factors that impact upon the standards of public safety have been considered. These could include

- the occupancy capacity of the premises

- the age, design and layout of the premises, including means of escape in the event of fire
- the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- customer profile (e.g. age, disability)
- the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

5.3 The following examples of good management practice are given to assist applicants who may wish to take account of them when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- suitable and sufficient risk assessments
- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- provision of effective CCTV in and around premises (e.g. CCTV systems may need to be checked to ensure they are fit for purpose, the evidential quality of the images provided may need to comply with the Home Office Scientific Development Branch Guidance on Public Space CCTV Systems, there may be a requirement for the system to be compatible to and connected to the Streetsafe East Cambridgeshire CCTV Control Room for the purposes of monitoring and recording if on the public highway)
- provision of toughened or plastic drinking vessels
- implementation of crowd management measures
- proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety.

6.0 PREVENTION OF PUBLIC NUISANCE

6.1 Licensed premises have a significant potential to impact adversely upon communities through public nuisances that arise from their operation. East Cambridgeshire District Council wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.

6.2 **The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour,**

litter and anti-social behaviour, where these matters impact upon those living, working or otherwise engaged in normal activity in an area.

- 6.3 Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance may be suitable for 24-hour opening.
- 6.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours unless there are exceptional reasons relating to disturbance or disorder.
- 6.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.**
- 6.6 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
 - the hours of opening, particularly between 23.00 and 07.00
 - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
 - the design and layout of premises and, in particular, the presence of noise-limiting features
 - the occupancy capacity of the premises
 - the availability of public transport
 - 'wind down period' between the end of the licensable activities and closure of the premises
 - last admission time.
- 6.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:
- effective and responsible management of premises
 - appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly
 - control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
 - adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)

- installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- liaison with public transport providers
- siting of external lighting, including security lighting
- management arrangements for collection and disposal of litter
- effective ventilation systems to prevent nuisance from odour.

7.0 PROTECTION OF CHILDREN FROM HARM

- 7.1 The protection of children from harm is a most important issue. It is hoped that family-friendly premises will thrive but the risk of harm to children remains a paramount consideration when determining applications.
- 7.2 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family-friendly leisure. Clearly, this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 7.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos. This includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances, children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, unpredictability of their age and the lack of understanding of danger.
- 7.4 The Licensing Authority considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises. The Licensing Authority has no intention of imposing conditions requiring the admission of children and where no licensing restriction is appropriate, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 7.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.**

7.6 Whilst children may be protected adequately from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact upon harm to children have been considered. Areas that will give particular concern in respect of children include

- where entertainment or services of an adult or sexual nature are commonly provided
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with evidence of under-age drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises, and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

7.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- adoption of best practice guidance (e.g. licensing trade voluntary codes of practice, including those relating to drinks promotions)
- limitations on the hours when children may be present, in all or parts of the premises
- limitations or exclusions by age when certain activities are taking place
- imposition of requirements for children to be accompanied by an adult
- acceptance of PASS accredited 'proof of age' cards and/or 'new type' UK driving licences with photographic ID
- measures to ensure that children do not purchase, acquire or consume alcohol
- measures to ensure that children are not exposed to incidences of violence or disorder.

These examples can be adopted in any combination.

7.8 **In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or East Cambridgeshire District Council. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the suitability of**

the film for exhibition to children and to implement measures that restrict viewing by children if appropriate.

- 7.9 If considered appropriate, the Licensing Authority may require that adult supervisors be checked for suitability to work with children.
- 7.10 The Licensing Authority will rarely impose complete bans on access to children. In exceptional circumstances, conditions restricting access or excluding children completely may be considered appropriate.

DRAFT

EQUALITY IMPACT ASSESSMENT (EIA) FORM

Name of Policy:	Licensing Act 2003 – Statement of Licensing Policy
Lead Officer (responsible for assessment):	Stewart Broome
Department:	Licensing
Others Involved in the Assessment (i.e. peer review, external challenge):	
Date EIA Completed:	22/6/2015

What is an Equality Impact Assessment (EIA)?

As part of any effective policy development process, it is important to consider any potential risks to those who will be affected by the policy's aims or by its implementation. The Equality Impact Assessment (EIA) process helps us to assess the implications of our decisions on the whole community, to eliminate discrimination, tackle inequality, develop a better understanding of the community we serve, target resources efficiently, and adhere to the transparency and accountability element of the Public Sector Equality Duty.

The word 'policy', in this context, includes the different things that the Council does. It includes any policy, procedure or practice - both in employment and service delivery. It also includes proposals for restructuring, redundancies and changes to service provision.

- (a) **What is the policy trying to achieve?** i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

It is a requirement under section 5 of the Licensing Act 2003 to have and review a statement of licensing policy at least every 5 years. It provides the framework for determining applications.

- (b) **Who are its main beneficiaries?** i.e. who will be affected by the policy?

Persons wishing to conduct licensable activities

- (c) **Is the EIA informed by any information or background data (quantitative or qualitative)? i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.**

No – but the process has a statutory consultation period, and should equality issues be raised during this period, they will be reflected in the second report to committee

- (d) **Does this policy have the potential to cause a positive or negative impact on different groups in the community, on the grounds of any of the protected characteristics?** (please tick all that apply)

Ethnicity
Gender
Disability
Gender Reassignment
Pregnancy & Maternity

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Age
Religion and Belief
Sexual Orientation
Marriage & Civil Partnership
Caring Responsibilities

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Please explain any impact identified: i.e. What do you already know about equality impact or

Licensing Policy – Appendix 2 - 1

need? Is there any evidence that there is a higher or lower take-up by particular groups? Have there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

No

(e) Does the policy have a differential impact on different groups?

NO

(f) Is the impact *adverse* (i.e. less favourable)?

NO

(g) Does it have the potential to disadvantage or discriminate unfairly against any of the groups in a way that is unlawful?

NO

(h) How have you engaged stakeholders in gathering evidence or testing the policy proposals? Who was involved, how and when where they engaged? Does the evidence show potential for differential impact? How will you mitigate any negative impacts? Where there is the potential for an adverse impact that cannot be addressed immediately, these should be highlighted in your recommendations and objectives at the end of the EIA.

A statutory consultation will be held with stakeholders and the public at large for a period of six weeks. Responses will be sent to a further committee hearing.

* The Consultation Register is available to assist staff in consulting with the Council's stakeholders.

(i) Summarise the findings of your research and/or consultation (please use a separate sheet if necessary).

The updates are due to legislative changes, and do not introduce anything outside of this. Due to this I am happy that no person will be placed at a disadvantage.

(j) What are the risks associated with the policy in relation to differential impact and unmet needs/requirements? i.e. reputation, financial, breach of legislation, service exclusion, lack of resources, lack of cooperation, insufficient budget etc.

None

(k) Use the information gathered in the earlier stages of your EIA to make a judgement on whether there is the potential for the policy to result in unlawful discrimination or a less favourable impact on any group in the community, and what changes (if any) need to be made to the policy.

Option 1:	No major change - the evidence shows that the policy is robust and no potential for discrimination.	X
Option 2:	Adjust the policy - to remove barriers or to better promote equality.	
Option 3:	Continue the policy - despite potential for adverse impact or missed opportunity to promote equality, provided you have satisfied yourself that it does not unlawfully discriminate.	
Option 4:	Stop and remove the policy – if the policy shows adverse effects that cannot be justified.	

(I) Where you have identified the potential for adverse impact, what action can be taken to remove or mitigate against the potential for the policy to unlawfully discriminate or impact less favourably on one or more communities in a way that cannot be justified?

Include key activities that are likely to have the greatest impact (max. 6). Identified actions should be specified in detail for the first year but there may be further longer term actions which need to be considered. To ensure that your actions are more than just a list of good intentions, include for each: the person responsible for its completion, a timescale for completion, any cost implications and how these will be addressed. It is essential that you incorporate these actions into your service plans.

This completed EIA will need to be countersigned by your Head of Service. **Please forward completed and signed forms to the Principal HR Officer.**

All completed EIAs will need to be scrutinised and verified by the Council's Equal Opportunities Working Group (EOWG) and published on the Council's Intranet to demonstrate to local people that the Council is actively engaged in tackling potential discrimination and improving its practices in relation to equalities. Please be aware that you may be asked to attend a half-an-hour session to summarise the findings of the EIA to the Scrutiny and Verification panel.

Signatures:

	Stewart Broome	22/6/2015
Completing Officer:	_____	Date: _____
Head of Service:	_____	Date: _____